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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Sacramento)

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THE PEOPLE,

Plaintiff and Respondent,

v.

SAMUEL QUINN CRUTCHOR,

Defendant and Appellant.

C080620

(Super. Ct. No. 14F00206)

A jury found defendant Samuel Quinn Crutchor guilty of involuntary manslaughter and assault causing the death of a child. On appeal, defendant challenges the trial court's failure to suppress his statements made during a custodial interrogation. He maintains he had invoked his right to an attorney. We will affirm.

## BACKGROUND

Defendant was charged following the death of a child in his care. Shortly after the incident, he was interrogated by two detectives over the course of several hours. The interview was recorded, transcribed, and ultimately played in redacted form for the jury.<sup>1</sup>

### **Defendant says, “I need a lawyer”**

Early on in the interrogation, defendant said, “I need a lawyer.” The statement was made in the following context:

“[First Detective]: Why are you so tired right now?

“[Defendant]: ‘Cause this headache has been bullshit since I found out about this shit yesterday. It’s a whole bunch of bullshit.

“[First Detective]: Okay. Well we will - that’s what we’re here to talk about.

“[Defendant]: And I’ve got - I come here and get arrested for bullshit.

“[First Detective]: Yeah. Well your warrant stuff, we don’t have any way - any control over that.<sup>2</sup>

“[Defendant]: Warrants? You said I had a warrant out of Monterey County. I don’t have no fucking warrant. That’s bullshit.<sup>3</sup>

“[First Detective]: Okay. Well we did wanna talk about what happened yesterday but we got a couple of things to make sure you’re aware of.

“[Defendant]: So what, I’m going to county jail, huh?<sup>4</sup>

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<sup>1</sup> The unredacted transcript and video recording are part of the record on appeal. In some instances, the transcript does not accord with what we hear from the recording. Any discrepancies pertinent to our analysis are noted.

<sup>2</sup> The transcript’s version: “Yeah. Well your warrant stuff we don’t have to weigh any - we’ll go over that.”

<sup>3</sup> The transcript’s version: “Warrants? You said I had a warrant in the county. I didn’t have no fucking warrants. That’s bullshit.”

<sup>4</sup> The transcript’s version: “So will I be going to county jail huh?”

“[First Detective]: Well you do have a warrant.

“[Defendant]: Not good. I need a lawyer.<sup>5</sup>

“[Second Detective]: All right. Since you do have the warrant, we have to make you aware of some things first okay?

“[Defendant]: What?

“[Second Detective]: You have the right to remain silent.”

The detectives thereafter read defendant his *Miranda* rights,<sup>6</sup> and defendant eventually acknowledged his understanding: “I understand the whole thing ma’am.”

**Defendant later says, “I already told you, I need a lawyer”**

Two hours and 20 minutes later, after the detectives had returned from a break and defendant was lying on the floor, defendant said, “I already told you, I need a lawyer,” which occurred in the following context:

“[First Detective]: [Defendant] you doing okay? Is that a yes?

“[Defendant]: Mmm.

“[First Detective]: Huh? Can you sit up?

“[Defendant]: Mm-hm.

“[First Detective]: I wanted to show you a couple of things. [Defendant]?

“[Defendant]: What?

“[First Detective]: Can you sit up?

“[Second Detective]: Can you come back out and sit in your - in your chair please?

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<sup>5</sup> In the video, defendant is facing away from the detectives, and his words are barely audible. His words preceding “I need a lawyer” overlap with the detective saying, “Well you do have a warrant.” Defendant may have said, “That’s fucked up” instead of “Not good.”

<sup>6</sup> *Miranda v. Arizona* (1966) 384 U.S. 436 [16 L.Ed.2d 694] (*Miranda*).

“[Defendant]: No. No.

“[First Detective]: Why not?

“[Defendant]: Tired.

“[First Detective]: You’re tired? Well you need to sit up.

“[Defendant]: I . . .

“[First Detective]: I need to be able to s - hear you and see you. Take your - take your hoody off.

“[Defendant]: I already told you, I need a lawyer.

“[First Detective]: What?

“[Defendant]: I need a lawyer bro’.

“[First Detective]: You need a lawyer?

“[Defendant]: ‘Cause all y’all trying to do is put this case on me. I don’t even know why . . .

“[First Detective]: Well we’re trying to help you.

“[Defendant]: And no.

“[First Detective]: All right. Come on out of there and let me see your face. Come on.

“[Defendant]: I won’t do anything without a lawyer man.

“[First Detective]: Okay. Well we’ll get you your lawyer. Go ahead and sit up though.”

### **Defendant moves to suppress his statements**

Before trial, defendant moved to exclude his statements, arguing that at multiple points in the interrogation he invoked his right to an attorney.<sup>7</sup>

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<sup>7</sup> Before the detectives arrived, and while officers who had taken defendant to the interrogation room were walking out the door, defendant said, “I do have a right to a fucking attorney in case y’all forgot that, jack ass.” The trial court concluded that

As to defendant's initial statement, "I need a lawyer," the trial court concluded it was not a clear and unambiguous assertion of his right to counsel: "It does not strike me that he is asking for an attorney." Rather, the court explained, defendant appeared to be concerned with being arrested on a warrant out of Monterey County.<sup>8</sup> The court, however, offered to re-review the recording in response to the prosecutor questioning if the transcript was accurate as to defendant saying, "Not good. I need a lawyer."

As to defendant's later statement, "I already told you, I need a lawyer," the trial court concluded it was a clear and unambiguous assertion of his right to counsel. Defendant's subsequent statements were excluded.

The next day, the trial court returned to defendant's statement, "Not good. I need a lawyer." It noted it had watched the video three times and while the detectives' statement before and after were clear, "[w]hat's not clear is what [defendant] says in between. I can't tell if he uses the word 'lawyer' or not. I can't say definitively that he didn't say the word 'lawyer,' because there are sounds in there that -- it sounds like it could be the word 'lawyer,' but I can't make out the word 'lawyer.' " The court noted that defendant was turning his back to the detectives, had his head down, and was "essentially mumbling." Regardless, the court explained, it had not changed its conclusion that defendant had not made a clear and unambiguous request for an attorney.

Following a jury trial, defendant was convicted of involuntary manslaughter (Pen. Code, § 192, subd. (b)) and assault causing the death of a child (Pen. Code, § 273ab). He received a 25-year-to-life sentence.

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statement was not a request for an attorney, and defendant does not challenge that ruling on appeal.

<sup>8</sup> The prosecution's written opposition represented that after the interrogation, defendant was taken to Monterey County on a probation violation warrant. Defendant's probation report reflects two convictions in Monterey, including one in 2011. He was released on post-release community supervision in 2012.

## DISCUSSION

On appeal, defendant challenges the trial court's failure to suppress his statements from the interrogation. He argues he had unambiguously invoked his right to counsel early in the interrogation when he said, "Not good, I need a lawyer." He maintains that conclusion is bolstered by the fact that he later told the detectives, "I already told you, I need a lawyer." We disagree.

A request for counsel must be unambiguous and "sufficiently clear[] that a reasonable police officer in the circumstances would understand the statement to be a request for an attorney." (*Davis v. United States* (1994) 512 U.S. 452, 459 [129 L.Ed.2d 362, 371].) "[I]nvoking the Fifth Amendment interest 'requires, at a minimum, some statement that can reasonably be construed to be an expression of a desire for the assistance of an attorney *in dealing with custodial interrogation by the police.*'" (*People v. Gonzalez* (2005) 34 Cal.4th 1111, 1123.)

A reviewing court asks "whether, in light of the circumstances, a reasonable officer would have understood a defendant's reference to an attorney to be an unequivocal and unambiguous request for counsel, without regard to the defendant's subjective ability or capacity to articulate his or her desire for counsel, and with no further requirement imposed upon the officers to ask clarifying questions of the defendant." (*People v. Gonzalez, supra*, 34 Cal.4th at p. 1125.) "Where, as was the case here, an interview is recorded, the facts surrounding the admission or confession are undisputed and we may apply independent review." (*People v. Jackson* (2016) 1 Cal.5th 269, 339.)

Here, after reviewing the transcript and video recording, we agree with the trial court that defendant did not clearly and unequivocally request an attorney for the custodial interrogation. Though defendant's exact statement is difficult to make out from the video, we are satisfied that he said, "I need a lawyer."

The context, however, makes evident that he was not asking for a lawyer for the interrogation. Rather, he said, “I need a lawyer” in the context of the Monterey County warrant. Shortly before saying, “I need a lawyer,” defendant expressed his frustration with getting arrested: “This headache has been bullshit since I found out about this shit yesterday. [¶] . . . [¶] . . . I come here and get arrested for bullshit.” The detective responded: “Yeah. Well your warrant stuff, we don’t have any way - any control over that.” Defendant responded: “Warrants? You said I had a warrant out of Monterey County. I don’t have no fucking warrant. That’s bullshit.”<sup>9</sup> After the detective says, “we got a couple of things to make sure you’re aware of,” defendant interjects, “So what, I’m going to county jail huh?” As the detective starts to say, “Well you do have a warrant,” defendant says something that might be “that’s fucked up” or “not good” followed by “I need a lawyer.”

In that context, it is not reasonable to conclude that defendant was clearly and unequivocally requesting an attorney in dealing with the custodial interrogation. The far more reasonable conclusion is that defendant was expressing his need for a lawyer arising out of his Monterey County warrant.

Further, we find unavailing defendant’s contention that his later statement, “I already told you, I need a lawyer,” shows that his initial statement was a request for a lawyer for the interrogation. His later statement was made two hours and 20 minutes after his first statement and appears to have been made in response to the repeated requests that he get up from the floor. It is simply insufficient to alter our conclusion that the initial statement was not a clear and unambiguous request for an attorney for the interrogation.

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<sup>9</sup> Again, the transcript’s version omits the word “Monterey,” but it can be heard in the recording.

DISPOSITION

The judgment is affirmed.

RAYE, P. J.

We concur:

ROBIE, J.

DUARTE, J.